

REMARKS

The present application is directed to a method of producing a protective immune response in a mammal by administering to a lung of the mammal an aerosol containing a non-living reagent that produces the protective immune response in the mammal to which it is administered. Prior to this Response, Claims 17-25 and 27 were pending.

In the Office Action, the Examiner indicates that Claims 17-25 are allowed, and Claim 27 is rejected under 35 U.S.C. §112, second paragraph. In this Response, Applicants cancel Claim 27 and present new Claim 28 based on cancelled Claim 27. The new claim does not add any new matter. Claim 17 has been amended to correct a grammatical error. Claims 17-25 and 28 will be pending upon entry of the amendments.

Claim Rejection under 35 U.S.C. §112, second paragraph

The Examiner rejects Claim 27 under 35 U.S.C. §112, second paragraph, as indefinite. The Examiner asserts that the claim is indefinite with regard to the term “free form” non-living reagent, recited in the claim. According to page 3 of the Office Action, Claim 27 is unclear because, in view of base Claim 17, “the microspheres already provide a protective amount of the non-living reagent” and also because it is unclear “what constitutes the metes and bounds” of the term “free form.” Applicants amend the claims as discussed below and assert that the claim amendments overcome the rejection.

Applicants cancel dependent Claim 27 and submit new independent Claim 28 based on previously pending, now cancelled, Claim 27. Support for the new claim is found throughout the application, as filed, for example, on 6, lines 11-15, and page 9, lines 18-20 of the specification.

New Claim 28 recites an aerosol comprising a non-living reagent in a form encapsulated within the biodegradable microspheres and in a free non-encapsulated form. In other words, in the embodiment claimed in new Claim 28, a protective amount of the aerosol

comprises the non-living-reagent in two different forms: an encapsulated form and a non-encapsulated (free) form.

Applicants respectfully submit that the amendments to the claims overcome the rejection and request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed July 10, 2008.

Applicants assert that the claims are in condition for allowance and respectfully request that the application be passed to issuance. If the Examiner believes that any informalities remain in the case that may be corrected by Examiner's amendment, or that there are any other issues which can be resolved by a telephone interview, a telephone call to the undersigned agent at (404) 815-6102 or to Jamie L. Greene at (404) 745-2473 is respectfully solicited.

No additional fees are believed due; however the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account number 11-0855.

Respectfully submitted,

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Attorney Docket No. 41577-317929 (P1349/USW)